

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERALD WILMER,	§
	§
Petitioner Below-	§ No. 719, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 11M-11-113
Respondent Below-	§ Cr. ID 9603002509
Appellee.	§

Submitted: March 14, 2012

Decided: March 19, 2012

Before **HOLLAND, BERGER**, and **JACOBS**, Justices.

ORDER

This 19th day of March 2012, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Gerald Wilmer, filed this appeal from the Superior Court's denial of his petition for a writ of habeas corpus. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Wilmer's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Wilmer currently is serving a twenty-five year term of imprisonment pursuant to a sentencing order of the Superior Court dated September 12, 1997. His conviction and sentence were

affirmed by this Court on direct appeal.¹ Thereafter, Wilmer filed several unsuccessful petitions for postconviction relief. On November 30, 2011, Wilmer filed a petition for a writ of habeas corpus in the Superior Court. The Superior Court denied that petition. This appeal followed.

(3) In his opening brief on appeal, Wilmer contends that his present restraint is illegal because there is evidence that Wilmer was incarcerated on the night the crime was alleged to have occurred. Wilmer also argues that the Superior Court erred in denying his motion for a free transcript of an evidentiary hearing that occurred on November 30, 2001.

(4) After careful consideration of Wilmer's opening brief and the State's motion to affirm, we find it manifest that the judgment of the Superior Court should be affirmed. In Delaware, the writ of habeas corpus is very limited and only provides relief to obtain judicial review of the jurisdiction of the court ordering the prisoner's commitment.² In this case, the Superior Court's commitment of Wilmer is valid on its face, and Wilmer is being held pursuant to that valid commitment.³ Thus, there is no basis for a writ of habeas corpus. Having determined that no legal basis exists for the writ, we find no abuse of the Superior Court's discretion in denying Wilmer's request for transcript at State expense.

¹ *Wilmer v. State*, 1998 WL 123200 (Del. Mar. 6, 1998).

² *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

³ 10 Del. C. § 6902(1)

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice